



Agricultural Marketing Service

7 CFR Part 52

[Doc. No. AMS-SC-21-0091, SC-22-326]

United States Standards for Grades of Processed Raisins

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed Rule.

SUMMARY: The Agricultural Marketing Service (AMS) proposes to revise the United States Standards for Grades of Processed Raisins. AMS is proposing to modify two references to the allowances for capstems within the standards to modernize the standards to reflect current industry practices. The proposal also includes minor editorial changes to table headings to align with updated Code of Federal Regulations (CFR) formatting requirements.

DATES: Comments must be submitted on or before [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER).

ADDRESSES: Interested persons are invited to submit comments to the Standardization Branch, Specialty Crops Inspection Division, Specialty Crops Program, Agricultural Marketing Service, U.S. Department of Agriculture, National Training and Development Center; 100 Riverside Parkway, Suite 101; Fredericksburg, Virginia 22406; fax: (540) 361-1199, or via the Internet at: <https://www.regulations.gov>. Comments should reference the date and page numbers of this issue of the **Federal Register**. All comments submitted in response to this proposed rule will become a part of the public record and be made available to the public including any personal information provided at <https://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Brian E. Griffin at the address above, or at phone (202) 748-2155; fax (540) 361-1199; or email Brian.Griffin@usda.gov.

Copies of the proposed U.S. Standards for Grades of Processed Raisins are available on the Internet at <https://www.regulations.gov>. Copies of the current U.S. Standards for Grades of Processed Raisins are available at <https://www.ams.usda.gov/grades-standards/fruits>.

SUPPLEMENTARY INFORMATION:

This proposed action, pursuant to 5 U.S.C. 553, would amend regulations at 7 CFR part 52 issued under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), as amended. These revisions to the U.S. grade standards would also be reflected in enforcement of the grade requirements under the Federal marketing order, 7 CFR part 989, issued under the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601-674) which regulates the handling of raisins produced from grapes grown in California, and 7 CFR part 999, which regulates the importation of raisins into the United States.

Executive Orders 12866 and 13563

The U.S. Department of Agriculture (USDA) is issuing this proposed rule in conformance with Executive Orders 12866 and 13563. Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. This proposed action falls within a category of regulatory actions that the Office of Management and Budget (OMB) has exempted from review under Executive Order 12866.

Executive Order 13175

This proposed rule has been reviewed under E.O. 13175 – Consultation and Coordination with Indian Tribal Governments, which requires agencies to consider

whether their rulemaking actions would have tribal implications.

AMS has determined that this proposed rule is unlikely to have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed action is not intended to have retroactive effect. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

Background

AMS continually reviews all fruit and vegetable grade standards to ensure their usefulness to the industry, and to modernize language and remove duplicative terminology. Changes to the headings for all tables within the U.S. Standards for Grades of Processed Raisins are required to reflect current CFR formatting requirements. Conforming changes to cross references to those tables within the standards are also proposed.

On October 13, 2017, AMS received a petition from the Raisin Administrative Committee (RAC), which locally administers the Federal marketing order regulating the handling of raisins produced from grapes grown in California (7 CFR part 989). The petition requested that AMS reduce the number of allowable capstems for all varieties, except Zante Currants, in all three Grades (A, B, and C) as follows: for Type I, Seedless Raisins and Type II, Golden Seedless Raisins the allowances for capstems would change in Grade A, from 15 to 10, in Grade B from 25 to 15, and in Grade C from 35 to 20. For Sultana Raisins the allowances for capstems would change in Grade A from 25 to 10, in Grade B from 45 to 15, and in Grade C from 65 to 20. The RAC further stated that, since

1978, the industry has adopted major improvements, including laser sorters, x-rays, and super vacuums, which allow the industry to clean and sort with far superior results that ultimately exceed the current U.S. Standards for Grades of Processed Raisins.

Prior to developing proposed revisions to these grade standards, AMS solicited comments and suggestions from the RAC in the form of a discussion draft of the revised standards. On December 20, 2017, the RAC provided a positive response to the discussion draft.

The AMS Agricultural Analytics Division helped develop a study to compare USDA inspection results for capstems for a specified period of time with those that would be obtained under the proposed changes submitted by the RAC based on data collected from AMS offices. The date range for the study was from October 4, 2016, to August 15, 2019, encompassing a total of 28,059 inspection results of all varieties, except Zante Currants, of both domestically produced raisins and imported raisins. AMS received the final report from the Agricultural Analytics Division on May 26, 2020. The report indicates that only 1.03% of all inspections—for both domestic and imported raisins—during the study’s date range would result in raisins grading differently under the proposed capstem allowances than they did under the current allowances, leaving a full 98.97% of lots of raisins inspected unchanged in their classification. See Report on Changing Capstem Allowances as supporting documentation to this notice.

Aware of the potential international implications that could result from tightening the allowances for capstems, the AMS International Standards Coordinator engaged with the Codex Committee on Processed Fruits and Vegetables regarding the draft revised standard for raisins to mitigate any opposition on the pending proposal. To gauge reaction to proposed changes in the U.S. Standards for Grades of Processed Raisins, AMS also contacted the United Nations Economic Commission for Europe’s (UNECE) largest member countries that produce raisins; Turkey; Germany, Europe’s largest

importer and consumer of raisins and dean of the European Union standardization sector; and the International Nut and Dried Fruit Council (INC), the largest international dry produce (fruits and nuts) member organization. SCI reached out in July 2020 and heard responses from October 2020 to February 2021 and ultimately made the decision to continue forward. While there was not consensus on the changes, which is not uncommon, with the AMS Agricultural Analytics Division finding that only slightly more than 1% of recent raisin inspections would result in a change of grade under the proposed rule, AMS does not expect the proposal to be overly burdensome on the international market, if enacted. Furthermore, the RAC believes that reducing the amount of allowable capstems would incentivize the use of the improved, modern technologies available to the industry. As the RAC also has stated that reduction in the amount of allowable capstems would result in a safer and better product for consumers, AMS is moving forward with this proposed rule to elicit comments from stakeholders concerning the proposal's efficacy.

A 60-day comment period is provided for interested persons to submit comments on the proposed revised grade standards. Copies of the proposed revised standards are at <https://www.regulations.gov>. After the 60-day comment period, AMS will move forward in accordance with 7 CFR 36.3 (a) (1 through 3).

Initial Regulatory Flexibility Analysis

Pursuant to the requirements set forth in the Regulatory Flexibility Act (RFA), AMS has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions so that small businesses will not be unduly or disproportionately burdened.

According to the industry, there are approximately 2,000 raisin growers in

California. According to the National Agricultural Statistics Service, for the 2020/21 season, the total value of production for raisin grapes was \$353,200,000. Taking the total value of production for raisins and dividing it by the total number of raisin growers provides a return per grower of \$176,600. A small grower as defined by the Small Business Administration (SBA) (13 CFR 121.201) is one that grosses \$3,500,000 or less, annually. Therefore, most raisin producers are considered small entities under SBA's standards.

According to the industry, for the 2020/21 season there are 22 handlers. A small agricultural service firm as defined by the SBA is one that grosses \$30,000,000 or less, annually. Based on the annual NASS handler report, for the 2020/21 season, 242,427 tons of raisins have been transferred to handlers for packing and shipment as of August 31, 2021. The average grower price for raisins, for the 2020 crop, was \$1,191 per ton. A reasonable assumption is that handlers would sell at a 10 percent markup over the grower price, resulting in a selling price of approximately \$1,310 per ton. Multiplying the handler's selling price per ton by the total number of packed tons shipped during the 2020 season provides a gross revenue of \$317,579,370. Dividing the total revenue by the number of handlers reveals an average revenue per handler of \$14,435,425. A small agricultural service firm as defined by the SBA is one that grosses \$30,000,000 or less, annually. Based on the calculations above, the majority of raisin handlers are considered small entities under SBA's standards. This action should not have any impact on handlers' or growers' benefits or costs.

List of Subjects in 7 CFR Part 52

Administrative practice, Fees, Food grades and standards, Food labeling, Frozen foods, Fruit juices, Fruits, Reporting and recordkeeping requirements, Vegetables.

For reasons set forth in the preamble, the Agricultural Marketing Service proposes to amend 7 CFR part 52 as follows:

**PART 52 – PROCESSED FRUITS AND VEGETABLES, PROCESSED
PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD
PRODUCTS**

1. The authority citation for part 52 continues to read as follows:

Authority: 7 U.S.C. 1621 – 1627.

2. Amend § 52.1846 by:

a. Removing, in paragraphs (a), (b), and (c) the words “Table I of this subpart”

and adding in their places the words “Table 1 to this section”; and

b. Revising, in the table following paragraph (d), the heading and the entry for capstems.

The revisions read as follows:

§ 52.1846 Grades of seedless raisins.

* * * * *

**Table 1 to § 52.1846 - Allowances for Defects in Type I, Seedless Raisins and Type
II, Golden Seedless Raisins**

Defects	U.S. Grade A	U.S. Grade B	U.S. Grade C
	* * * * *		
	Maximum count (per 16 ounces)		
Capstems	10	15	20
	* * * * *		

§ 52.1849 [Amended]

3. Amend § 52.1849 by removing the words “Table I” and adding in their place the words “Table 1 to § 52.1846”.

§ 52.1852 [Amended]

4. Amend § 52.1852 by:

a. Removing, in paragraphs (a), (b), and (c), the words “Table II of this subpart”

and adding in their places the words “Table 1 to this section”; and

b. Revising the heading of the table following paragraph (d) to read “Table 1 to § 52.1852 - Allowances for Defects in Raisins with Seeds—Except Layer or Cluster”.

§ 52.1853 [Amended]

5. Amend § 52.1853 by:

a. Removing, in paragraphs (a) and (b), the words “Table III of this subpart” and adding in their place the words “Table 1 to this section”; and

b. Revising the heading of the table following paragraph (c) to read “Table 1 to § 52.1853 - Allowances for Defects in Layer or Cluster Raisins with Seeds”.

6. Amend § 52.1855 by:

a. Removing, in paragraphs (a), (b), and (c), the words “Table IV of this subpart” and adding in their places the words “Table 1 to this section”; and

b. Revising, in the table following paragraph (b), the heading and the entry for capstems.

The revisions read as follows:

§ 52.1855 Grades of Sultana raisins.

* * * * *

Table 1 to § 52.1855 Allowances for Defects in Sultana Raisins

Defects	U.S. Grade A	U.S. Grade B	U.S. Grade C
	* * * * *		
	Maximum count (per 16 ounces)		
Capstems	10	15	20
	* * * * *		

§ 52.1857 [Amended]

7. Amend § 52.1857 by:

a. Removing in paragraphs (a) and (b) the words “Table V of this subpart” and adding in their places the words “Table 1 to this section”; and

b. Revising the heading of the table following paragraph (a) to read “Table 1 to § 52.1857 – Allowances for Defects in Zante Currant Raisins”.

Erin Morris,

Associate Administrator,

Agricultural Marketing Service.

[FR Doc. 2023-04741 Filed: 3/7/2023 8:45 am; Publication Date: 3/8/2023]